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09/825,436	04/02/2001	Richard C. Gowen	051207-1080	1807

22827 7590 11/03/2005		EXAMINER
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DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _21 July 2005_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

DETAILED ACTION

1.   This office action is in response to the arguments filed on July 21, 2005, in which claims

1-20 are presented for further examination.

Response to Arguments

2.   Applicant's arguments filed July 21, 2005 have been fully considered but they are not

persuasive. (See examiner' s remark statements).

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

4.   Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed

to non-statutory subject matter, specifically, as directed to an abstract idea.

Claims 1-20 in view of **MPEP section 2106 IV.B.2. (b)** define non-statutory processes

because they merely manipulate an abstract idea without a claimed limitation to a practical

application. The language of the claim raises a question as to whether the claim is directed

merely to an abstract idea that is not tied to a technological art, environment or machine which

would result in a practical application producing a concrete, useful, and tangible result to form

the basis of statutory subject matter under 35 U.S.C. 101. Data structure not claimed as

embodied in computer-readable media is descriptive material per SE and is not statutory because

they are neither physical nor statutory processes. Structural and functional interrelationship with

a general-purpose computer for permitting claimed functions to be realized are not provided in

the claims. In contrast, a claimed system should define structural and functional

interrelationships between data structures or functional parts and a computer system which

permit the data functions to be realized, and is statutory. Thus, the claimed are rejected as being

non-statutory. Additionally, the invention, as claimed, is directed to the manipulation of an

abstract idea with no practical application in the technology arts.

The Supreme Court has repeatedly held that abstractions are not patentable. "An idea of

itself is not patentable". Rubber-Tip Pencil Co. V. Howard, 20 wall. 498, 07. Phenomena of

nature, though just discovered, mental processes, abstract intellectual concepts are not

patentable, as they are the basis tolls of scientific and technological work Gottschalk V. Benson,

175 USPQ 673, 675 (S Ct 1972). It is a common place that laws of nature, physical phenomena,

and abstract ideas are not patentable subject matter Parker V. Flook, 197 USPQ 193, 201 (S Ct

1978). A process that consists solely of the manipulation of an abstract idea is not concrete or

tangible. See In re Wamerdam, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1754, 1759 (Fed. Cir.

1994). See also Schrader, 22 F.3d at 295, 30 USPQ2d at 1459.

The claimed invention as a whole must accomplish a practical application. That is, it

must produce a "useful, concrete and tangible result." State Street, 149 F.3d at 1373, 47 USPQ2d

at 1601-02. The purpose of this requirement is to limit patent protection to inventions that

possess a certain level of "real world" value, as opposed to subject matter that represents nothing

more than an idea or concept, or is simply a starting point for future investigation or research

(Brenner v. Manson, 383 U.S. 519, 528-36, 148 USPQ 689, 693-96); In re Ziegler, 992, F.2d

1197, 1200-03, 26 USPQ2d 1600,1603-06 (Fed. Cir. 1993)). Accordingly, a complete disclosure

should contain some indication of the practical application for the claimed invention, i.e., why

the applicant believes the claimed invention is useful.

Apart from the utility requirement of 35 U.S.C. 101, usefulness under the patent

eligibility standard requires significant functionality to be present to satisfy the useful result

aspect of the practical application requirement. See Arrhythmia, 958 F.2d at 1057, 22 USPQ2d at

1036. Merely claiming nonfunctional descriptive material stored in a computer-readable medium

does not make the invention eligible for patenting. For example, a claim directed to a word

processing file stored on a disk may satisfy the utility requirement of 35 U.S.C. 101 since the

information stored may have some "real world" value. However, the mere fact that the claim may

satisfy the utility requirement of 35 U.S.C. 101 does not mean that a useful result is achieved

under the practical application requirement. The claimed invention as a whole must produce a

"useful, concrete and tangible" result to have a practical application.

Claims 1, 6 and 16 represent an abstract idea, which do not provide a practical

application in the technological arts. There is no post computer process activity is found in the

technological arts. The system, and method for providing a decision support system is not a

physical transformation. Thus, no physical transformation is performed, no practical application

is found in the claims. Such managing data as claimed can be done in a piece of paper. Also, the

claims do not appear to correspond to a specific machine or manufacture disclosed within the

specification and thus encompass any product of the class configured in any manner to perform

the underlying process, and are thus rejected as being directed. Claims 1, 6 and 16 are not

tangibly embodied in a manner so as to ***be executable*** as the only hardware is in an intended use

statement. Therefore, claims 1, 6 and 16 are directed to an abstract idea that is not tied to a

technological art, environment or machine which would result in a practical application

producing a concrete, useful, and tangible result to form the basis of statutory subject matter

under 35 U.S.C. 101. Applicant is advised to amend the claims by specifying the claim being

directed to a practical application and producing a tangible result *__being executed__* by a general-

purpose computer in order to correct the above indicated deficiencies.

The dependent claims 2-5, 7-10 and 17-20 are rejected for fully incorporating the errors

of their respective base claims by dependency. Thus, claims 2-5, 7-10 and 17-20 are merely

abstract idea and are being processed without any links to a practical result in the technology arts

and without computer manipulation. They are not **tangibly embodied** in a manner so *__as to be__*

__executable__ as the only hardware is in an intended use statement.

Double Patenting

5.   The non-statutory double patenting rejection is based on a judicially created doctrine

grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or

improper timewise extension of the "right to exclude" granted by a patent and to prevent possible

harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.

Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686

F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA

1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to

overcome an actual or provisional rejection based on a nonstatutory double patenting ground

provided the conflicting application or patent is shown to be commonly owned with this

application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal

disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR

3.73(b).

6.   Claims 1-20 are provisionally rejected under the judicially created doctrine of

obviousness-type double patenting as being unpatentable over claims 1-10 of the copending U.S.

Application serial number 11/001,728. Although the conflicting claims are not identical, they

are not patentably distinct from each other because of the following reasons: Claim 1 of the

instant application substantially recites the limitations of claim 1 of the cited co-pending

application. The claim merely omits certain the underlined limitations and replaces the bolded

limitations as shown in comparison tables 1-6 below.

Application **Claim 1**	**Copending Application Claim 1**
1. A system for providing a decision support system, comprising: means for acquiring system data; means for transforming the system data into searchable data; <u>means for loading the searchable data into at least one data mart, wherein said at least one data mart comprises a fact table surrounded by a plurality of dimensional table coupled thereto in a star configuration;</u> and means for providing queries on the searchable data.	1. A system for providing a decision support system, comprising: means for acquiring system data; means for transforming the system data into searchable data; and means for providing queries on the searchable data.

Table 1

It would have been obvious to one of ordinary skill in the art of data processing at the

time the invention was made to modify the cited steps as indicated claim 1 of the Copending US

patent application since the omission and addition of the cited limitations would have not

changed the process according to which the method of providing a decision support system.

Therefore, the ordinary skilled artisan would have been also motivated to modify claim 1 of the

cited Copending US patent application by adding the <u>means for loading the searchable data into</u> <u>at least one data mart, wherein said at least one data mart comprises a fact table surrounded by a</u> <u>plurality of dimensional table coupled thereto in a star configuration.</u> The cited adding elements would not interfere with the functionality of the steps previously claimed and would perform the same function. In re Karlson, 136 USPQ 184 (CCPA 1963).

The dependent claims 2-5 of the instant application are rejected for fully incorporating the errors of their respective base claims by dependency.

Application Claims 2-5	Copending Application Claims 2-5
2. The system of claim 1, further comprising: means for loading searchable data into a billing data mart.	2. The system of claim 1, further comprising: means for loading searchable data into a billing data mart.
3. The system of claim 2, further comprising: means for loading searchable data into a usage data mart.	3. The system of claim 2, further comprising: means for loading searchable data into a usage data mart.
4. The system of claim 3, further comprising: means for creating summary tables of the billing data mart and usage data mart.	4. The system of claim 3, further comprising: means for creating summary tables of the billing data mart and usage data mart.
5. The system of claim 4, further comprising: means for refreshing the billing data mart and usage data mart.	5. The system of claim 4, further comprising: means for refreshing the billing data mart and usage data mart.

Table 2

Application **Claim 6**	**Copending Application Claim 6**
6. A system for providing a decision support system, comprising: acquiring system data; transforming the system data into searchable data; loading the searchable data into at least one data mart, wherein said at least one data mart comprises a fact table surrounded by a plurality of dimensional table coupled thereto in a star configuration; and providing queries on the searchable data.	6. A system for providing a decision support system, comprising: acquiring system data; transforming the system data into searchable data; and providing queries on the searchable data.

Table 3

It would have been obvious to one of ordinary skill in the art of data processing at the time the invention was made to modify the cited steps as indicated claim 6 of the copending US Patent application since the omission and addition of the cited limitations would have not changed the process according to which the system for providing a decision support system. Therefore, the ordinary skilled artisan would have been also motivated to modify claim 6 of the cited copending US Patent application by adding the step of loading the searchable data into at least one data mart, wherein said at least one data mart comprises a fact table surrounded by a plurality of dimensional table coupled thereto in a star configuration. The cited omitting elements would not interfere with the functionality of the steps previously claimed and would perform the same function. In re Karlson, 136 USPQ 184 (CCPA 1963).

The dependent claims 7-10 of the instant application are rejected for fully incorporating

the errors of their respective base claims by dependency.

Application Claims 7-10	Copending Application Claims 7-10
7. The method of claim 1, further comprising: loading searchable data into a billing data mart.	7. The method of claim 1, further comprising: loading searchable data into a billing data mart.
8. The system of claim 2, further comprising: loading searchable data into a usage data mart.	8. The system of claim 2, further comprising: loading searchable data into a usage data mart.
9. The system of claim 3, further comprising: creating summary tables of the billing data mart and usage data mart.	9. The system of claim 3, further comprising: creating summary tables of the billing data mart and usage data mart.
10. The system of claim 4, further comprising: refreshing the billing data mart and usage data mart.	10. The system of claim 4, further comprising: refreshing the billing data mart and usage data mart.

Table 4

Application **Claim 11**	**Copending Application Claim 6**
6. A computer readable medium for providing a decision support system, comprising: logic for acquiring system data; logic for transforming the system data into searchable data billing data and customer usage data; and logic for providing queries on the searchable data.	6. **A system** for providing a decision support system, comprising: acquiring system data; **transforming the system data into searchable data**; and providing queries on the searchable data.

Table 5

It would have been obvious to one of ordinary skill in the art of data processing at the

time the invention was made to modify the cited steps as indicated claim 6 of the copending US

Patent application since the omission and addition of the cited limitations would have not

changed the process according to which the system for providing a decision support system.

Therefore, the ordinary skilled artisan would have been also motivated to modify claim 6 of the cited copending US Patent application by substituting the **transforming the system data into searchable data** to <u>logic for transforming the system data into searchable data billing data and customer usage data</u> ; and **a system to** <u>A computer readable medium</u>. The cited omitting elements would not interfere with the functionality of the steps previously claimed and would perform the same function. In re Karlson, 136 USPQ 184 (CCPA 1963).

The dependent claims 12-15 of the instant application are rejected for fully incorporating the errors of their respective base claims by dependency.

Application **Claim 16**	**Copending Application Claim 6**
16. A system for providing a decision support system, comprising: an input mechanism that acquires <u>calling card system data</u>; a transformation mechanism that transform <u>the calling card system data into searchable billing-related and customer usage data</u>; and a reporter that provides queries on the searchable data.	6. A system for providing a decision support system, comprising: acquiring **system data**; transforming **the system data into searchable data**; and providing queries on the searchable data.

Table 6

It would have been obvious to one of ordinary skill in the art of data processing at the time the invention was made to modify the cited steps as indicated claim 6 of the copending US Patent application since the omission and addition of the cited limitations would have not changed the process according to which the system for providing a decision support system. Therefore, the ordinary skilled artisan would have been also motivated to modify claim 6 of the cited copending US Patent application by replacing **system data** with <u>calling card system data</u>; and **the system data into searchable data** with <u>the calling card system data into searchable</u>

billing-related and customer usage data. The cited omitting elements would not interfere with

the functionality of the steps previously claimed and would perform the same function. In re

Karlson, 136 USPQ 184 (CCPA 1963).

The dependent claims 17-20 of the instant application are rejected for fully incorporating

the errors of their respective base claims by dependency.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a whole
> would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived
> by the manner in which the invention was made.

8.   Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al.,

(hereinafter "Jones") US Patent no. 6,195,422 and Campbell et al., (hereinafter "Campbell") US

Patent no. 6,453,029.

As to claims 11 and 16, Jones discloses the claimed "logic for acquiring calling card system

data" (col.8, lines 24-28; col.10, lines 13-25, lines 50-65; col.12, lines 7-15, lines 58-65 and

col.13, lines 43-48). However, Jones does not explicitly disclose the use of transforming the

system data into searchable billing data and customer usage data and providing queries on the

searchable data.

On the other hand, Campbell discloses the claimed "logic for transforming the system data into

searchable billing data and customer usage data" as a means for providing access to the caller's

account responding to a rating query from call processor, wherein the call processor converts the

account balance into a certain number of minutes for a specific connection and then subtracting

the elapsed time from the initial balance (col.7, lines 28-32 and lines 46-50); and "logic for

providing queries on the searchable data" by playing the remaining minutes as a warning to the

caller (col.7, lines 50-53). Therefore, it would have been obvious to one having ordinary skill in

the art the time the invention was made to combine the teachings of the cited references, wherein

the calling card system provided therein (Jones' fig 3, "inter-LATA calling card system) would

incorporate the use of transforming the system data into searchable billing data and customer

usage data and providing queries on the searchable data in the same conventional manner as

disclosed by Campbell. One having ordinary skill in the art would have found it motivated to use

such a combination for the purpose of providing the caller with periodic time remaining

warnings when the account balance approaches a minimum amount, thereby increasing the

efficiency of the calling card system.

As to claims 12 and 17, Campbell discloses the claimed "logic for loading searchable data into a

billing data mart" (col.7, lines 28-32 and lines 46-53).

As to claims 13 and 18, Campbell discloses the claimed "logic for loading searching data into a

usage data mart" (col.7, lines 28-32 and lines 46-53).

As to claims 14 and 19, Jones discloses the claimed "logic for creating summary tables of the

billing data mart and usage data mad" (col.12, lines 8-15; col.14, lines 7-15, lines 19-34).

As to claims 15 and 20, Jones discloses the claimed "logic for refreshing the billing data mad and

usage data mart" (col.14, lines 27-50).

Allowable Subject Matter

9.   Claims 1 and 6 would be allowable upon filing a terminal disclaimer to overcome the

rejection(s) under 35 U.S.C. 101 and double patenting, set forth in this Office action.

10.   The following is an examiner's statement of reasons for patentability and/or confirmation

of the claims found patentable in this reexamination proceeding: Claims 1 and 6 of the present

invention are directed to a data marts, which utilize and store all of the information available for

research, wherein unlike data warehouse, data marts are focused on billing related information

for a calling card plan, wherein data marts utilized by the decision support system are based on

the star schema that consists of a vary large fact table, which is surrounded by dimensional

tables, supported by the specification page 10, lines 3-12. Similarly, the closest prior art, Griffin

et al., (US Patent publication no.2002/0038306), has shown that data stored in a data warehouse

or a data mart is intended to provide higher-level, aggregated views of the data, such as total

sales by product line or region over a predetermined period of time, in support of business

decision making, thereby providing consistently fast responses to such aggregate queries, data in

a data warehouse or data mart must be structured in a manner facilitating the data synthesis,

analysis, and consolidation. The data warehouse or data mart is usually structured as a relational

database, which can be seen as a collection of tables organized according to the dimensional

model [0004] and [0008]. However, the priority filing date of Griffin, June 16, 2000 is almost

three months later from the priority date of the present application, March 31, 2000. therefore,

Griffin can not be used as a prior art against limitations of claims 1 and 6, "loading the

searchable data into at least one data mart, wherein said at least one data mart comprises a fact

table surrounded by a plurality of dimensional table coupled thereto in a star configuration". This

feature renders claims 1 and 6 allowable.

Remark

In the following paragraphs, the Examiner will consequently address Applicant's

contentions in the order which they appear in the response, and to the extent that they relate to

the rejections of record.

A.   Applicant asserted in page 3 of the remark that Jones (US Patent No. 6,195,422)

is not consistent with the type of information that could become a searchable collection of billing

and customer usage data, much less a collection of information on which to provide queries,

wherein such information retrieved in Jones is not capable of being transformed into searchable

billing and customer usage data. The examiner disagrees with the precedent assertion. However,

when read and analyzed in the light of the specification, the invention as claimed does not

support applicants' assertion. Moreover, the claims do not capture the essence of the invention as

argued in applicants' remark page 3. It is important to note that applicants are interpreting the

claims very narrow without considering the broad teachings of the reference used in the

rejection. In the last office action, the examiner went through the claims phrase by phrase and

referred to the prior art column and line number as to where he has drawn the correspondences

between applicants' claims phrases and prior art. By failing to address these correspondences,

applicants have failed to rebut the examiner's prima facie case of obviousness uses for a different

purpose which does not alter the conclusion that its use in a prior art device would be prima facie

obvious from the purpose disclosed in the reference. It is respectfully submitted that Jones

discloses substantially the invention as broadly claimed. In particular, Jones discloses a calling

card system that makes decision as to whether it will accept or reject a call (col.13, lines 62-63).

The system disclosed by Jones may decide to accept or reject a call based on whether or not the

toll balance exceeds a thresholds, such as the amount for completion of a time of a call to the

dialed destination (col.13, lines 63-67). Jones has shown if the system decides to rejected the

call, based on a small balance, a pre-recorded message is sent to the caller advising of that

determination (col.14, lines 1-3). On the other hand, if the system decides to accepts the call, the

call routes to the destination, where, the calling card system begins to monitor and rate the time

used for the call. Applicant should duly note the caller can only charge for the time used in

placing a call. So, when the call is completed, the calling card system is transformed the usage

data, which is the duration for the call, into a billing data, which the rate charges for the usage

data, similarly to the description provided by the applicant's specification page 9, line 22-page

10, line 2. Jones does not explicitly disclose the use of convert data into a searchable billing data.

However, Jones has shown if a poor long distance toll payment record is occurred, the calling

card system can retrieved from the database the records amount and determines the toll balance

(col.13, lines 58-60). Campbell, on the other hand, discloses a calling card system that discloses

the use of logic for transforming the system data into searchable billing data and customer usage

data, as a way of providing access to a caller's account responding to a rating query from call

processor, wherein the call processor converts the account balance into a certain number of

minutes for a specific connection and then subtracting the elapsed time from the initial balance

(col.7, lines 28-32 and lines 46-50); and "logic for providing queries on the searchable data" by

playing the remaining minutes as a warning to the caller (col.7, lines 50-53). Moreover, modified

Jones' system to retrieve the billing data with respect to the customers usage data would not

change the principle of operation because Jones' system provides the ability to automatically

transform the customer usage data to a billing data, such when the calling card system accepts a

call, the call routes through the Interexchange Carrier network to its dialed destination, so at this

point the calling card system commences timing, monitoring the call, transforming the usage

data into a billing data by rating the call based on the destination and duration (col.14, lines 1-

15). Jones has also shown, if the calling card system has a call, the billing number, the digits

which were originally dialed and knows that the caller has a poor long distance toll payment

record, so the calling card system can retrieves from the database the records of the account and

determines the toll balance for reimbursement (col.13, lines 55-60). It is clear that Jones' system

can be modified to retrieve the billing data associated with the customer usage data. Applicants

are reminded that the examiner is entitled to the broadest reasonable interpretation of the claims.

The Applicants always have the opportunity to amend the claims during prosecution and broad

interpretation by the examiner reduces the possibility that the claim, once issued, will be

interpreted more broadly than is justified. In re Prater 162 USPQ 541, 550-51 (CCPA

1969).Therefore, Jones discloses the invention as claimed.

      B.   Applicant alleged that there is no suggestion or motivation to modify such

reference properly exists because Jones teaches away from the inclusion of such comprehensive

steps as related to the acquisition and analysis of searchable billing and customer usage data. The

examiner disagrees with the precedent allegation. Applicants' allegations are not relied whether

the combination of the cited references discloses the recited claimed elements, rather than the

rationale to provide a suggestion or motivation to modify the cited references. According to

Webster's II New Riverside University dictionary, the word acquisition refers to an act of

acquiring, wherein acquire refers to gain possession or control of. Whereas, billing and customer

usage data deals with duration of a call and the rate or charge for the duration of the call.

Applicant's arguments clearly mischaracterize the teachings resulting from the Jones-

Campbell combined system, and offer a piecemeal analysis of the references. In response to

applicant's arguments against the references individually, Applicant is reminded that one cannot

show nonobviousness by attacking references individually where the rejections are based on

combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re*

Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Further, in response to

Applicant's argument that there is no suggestion to modify the references, the Examiner

recognizes that obviousness can only be established by combining or modifying the teachings of

the prior art to produce the claimed invention where there is some teaching, suggestion, or

motivation to do so found either in the references themselves or in the knowledge generally

available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed.

Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Jones

teaches a calling card system for making decision as to whether to accept or reject a call. If the

calling card system decides to accept a call, at that the calling card system begins to time,

monitor and rate the duration or the usage data. Jones, in fact is not taught away from the

inclusion of such comprehensive step related to acquisition because the system of Jones gains

access to the calling data and transform the usage data or the duration of a call to a billing data

(col.13, line 62-col.14, lines 18), while Campbell system is directed to a prepaid calling system

that allows callers to charge telephone call cost against a prepaid amount that has been deposited

by the callers. Campbell discloses the use of accessing a caller's account in response to a rating

query from call processor by indicating whether the call should be charged on a fixed or variable

rate. Based on the query requested the call processor calculates a minimum call duration or call

for the specific connection dialed and upon the account balance. Upon the account balance, the

rating plan and type of connection, the processor can convert the account balance into a

searchable number of minutes for a specific connection (col.7, lines 45-50). Moreover, modified

Jones' system to retrieve the billing data with respect to the customers usage data would not

change the principle of operation because Jones' system provides the ability to automatically

transform the customer usage data to a billing data, such when the calling card system accepts a

call, the call routes through the Interexchange Carrier network to its dialed destination, so at this

point the calling card system commences timing, monitoring the call, transforming the usage

data into a billing data by rating the call based on the destination and duration (col.14, lines 1-

15). Jones has also shown, if the calling card system has a call, the billing number, the digits

which were originally dialed and knows that the caller has a poor long distance toll payment

record, so the calling card system can retrieves from the database the records of the account and

determines the toll balance for reimbursement (col.13, lines 55-60). It is clear that Jones' system

can be modified to retrieve the billing data associated with the customer usage data.

Therefore, the motivation is proper since Jones suggests the concept of supplying the

necessary information of toll call to selected calling card type system, and Campbell further

expands on the teaching suggested by Jones (i.e. see the need to combine the references). Thus,

the ordinary skilled artisan would have found obvious to look to analogous art in the data

processing technology for similar teachings to reinforce the efficiency since the demand levels

on each call processor and server reduces by providing the customer with periodic time

remaining warning when an account balance approaches to minimum account. Consequently, the

rejection of claim1 is sustained.

        C.   Applicant asserted that Campbell is not comparable to the transformation of call

card system data into searchable data for running subsequent queries, with respect to claims 11

and 16. The examiner disagrees with the precedent assertion. However, when read and analyzed

in the light of the specification, the invention as claimed does not support applicants' assertion.

Moreover, the claims do not capture the essence of the invention as argued in applicants' remark

page 4. The aforementioned assertions, wherein the transformation of call card system data into

searchable data for running subsequent queries fails to disclose by Campbell with regard to the

invention of claims 11 and 16, was unsupported by objective factual evidence and was not found

to be substantial evidentiary value. It is important to note, Applicants' assertions are not

explicitly stated in neither of the independent claims 11 and 16. There is no mentioned of a

transformation of call card system data into searchable data for running subsequent queries in the

claims. In contrast, claim 11 recites "transforming the system data into searchable data and

loading the searchable data into at least one data mart characterized by a table surrounded by

dimensional tables coupled thereto in a star configuration; and providing queries on the

searchable data". However, Applicants are interpreting the claims very narrow using the

specification without considering the broad teaching of the reference stated in the rejection.

Applicants cannot rely on the specification to impart to the claims limitations not recited therein.

Such reliance is ineffective to define over the prior art. In re Lundberg, 244 F2d 543, 113 USPQ

530 (CCPA 1957); In re Winklans, 188 USPQ 129 (CCPA 1975). Applicant is further reminded

of the clear difference between reading the claims in light of the specification as allowed by 35

U.S.C. 112, 6th paragraph, and by In re Donaldson 29 USPQ2d, 1845, 16 F.3d 1189 (Fed. Cir,

1994), and reading limitations of the specification into the claims In re Prater 415 F2d 1393, 162

USPQ 541 (CCPA 1969). Moreover, Campbell system is directed to a prepaid calling system

that allows callers to charge telephone call cost against a prepaid amount that has been deposited

by the callers. Campbell discloses the use of accessing a caller's account in response to a rating

query from call processor by indicating whether the call should be charged on a fixed or variable

rate. Based on the query requested the call processor calculates a minimum call duration or call

for the specific connection dialed and upon the account balance. Upon the account balance, the

rating plan and type of connection, the processor can convert the account balance into a

searchable number of minutes for a specific connection (col.7, lines 45-50), which similar to the

description provided by the specification page 10, lines 1-3, where the system evaluate

geographic usage load by performing a query that map the total call volume by geographic

region and call/ date of time and also, in line 16-21, where the service and tariffs process

provides prepaid and postpaid tariff model administration and stored these models for access by

their rated function. Consequently, the system disclosed by Campbell provides the used of

transforming the calling card usage data into a billing data, where the call processor queries the

server 101 for the rating method that is to be used in calculating the caller's charges, in order to

respond to the rating query (col.7, lines 2-5). The rejection of claims 11 and 16 is hereby

sustained.

D.   Additionally, applicant contends that Campbell fails to cure the deficiencies of the base

reference Jones et al. The Examiner respectfully disagrees. Such contentions are unfounded.

Jones, in col.13, line 62-col.14, line 18, teaches a calling card system for making decision as to

whether to accept or reject a call. If the calling card system decides to accept a call, at that the

calling card system begins to time, monitor and rate the duration or the usage data. Jones, in fact

is not taught away from the inclusion of such comprehensive step related to acquisition because

the system of Jones gains access to the calling data and transform the usage data or the duration

of a call to a billing data, while Campbell system is directed to a prepaid calling system that

allows callers to charge telephone call cost against a prepaid amount that has been deposited by

the callers. Campbell discloses the use of accessing a caller's account in response to a rating

query from call processor by indicating whether the call should be charged on a fixed or variable

rate. Based on the query requested the call processor calculates a minimum call duration or call

for the specific connection dialed and upon the account balance. Upon the account balance, the

rating plan and type of connection, the processor can convert the account balance into a

searchable number of minutes for a specific connection (col.7, lines 45-50).

        Moreover, modified Jones' system to retrieve the billing data with respect to the

customers usage data would not change the principle of operation because Jones' system

provides the ability to automatically transform the customer usage data to a billing data, such

when the calling card system accepts a call, the call routes through the Interexchange Carrier

network to its dialed destination, so at this point the calling card system commences timing,

monitoring the call, transforming the usage data into a billing data by rating the call based on the

destination and duration (col.14, lines 1-15). Jones has shown, if the calling card system has a

call, the billing number, the digits which were originally dialed and knows that the caller has a

poor long distance toll payment record, so the calling card system can retrieves from the database

the records of the account and determines the toll balance for reimbursement (col.13, lines 55-

60). It is clear that Jones' system can be modified to retrieve the billing data associated with the

customer usage data. Consequently, Campbell cures the deficiencies of Jones by transforming

the calling card usage data into a billing data, where the call processor queries the server 101 for

the rating method that is to be used in calculating the caller's charges, in order to respond to the

rating query (col.7, lines 2-5). Therefore, the combination of Jones and Campbell is proper since

Jones suggests the concept of supplying the necessary information of toll call to selected calling

card type system, and Campbell further expands on the teaching suggested by Jones (i.e. see the

need to combine the references). Thus, the ordinary skilled artisan would have found obvious to

look to analogous art in the data processing technology for similar teachings to reinforce the

efficiency since the demand levels on each call processor and server reduces by providing the

customer with periodic time

E.   Regarding the rejection of claims 12-15 and 17-20, Applicant primarily relies on

their dependency on claims 11 and 16 to allege that they are patentable over the prior art of

record since claim is allegedly patentable. Additionally, with respect to each of the cited claims,

Applicant generally alleged that the prior art does not teach each and every claimed limitation

without actually detailing the reasons why. In response to such allegations, the Examiner submits

that rejection of claims 12-15 and 17-20 is sustained since claims 11 and 16 were properly

rejected over the Jones and Campbell combination, as laid out in the office action of 4/21/05 and

as discussed in the foregoing remarks. Additionally, Applicant is reminded that pursuant to 37

CFR 1.111(b), a general allegation that the claim define a patentable invention without

specifically pointing out how the language of the claims patentably distinguishes them from the

prior art of record is insufficient to rebut a prima facie case. Applicant alleges that Jones and

Campbell do not teach the limitations of the cited claims. However, Applicant failed to actually

explain how these limitations are distinguishable from the textual portions of the cited references

on which the Examiner relied to establish the prima facie case. Consequently, Applicant has

failed to successfully rebut the rejection of the cited claims. It has also been held that Applicant

bears the burden of explaining why the evidence on which the Examiner relies is insufficient to

establish a prima facie case or demonstrating that Applicant has provided evidence, which rebuts

the prima facie case. See In re Rouffet, 149 F.3d 1350, 1355 47 USPQ2d 1453, 1455 (Fed. Cir.

1998).

Thus, for the above reasons, it is believed that the rejection under 35 U.S.C. 103 provides

substantial evidence to support the rationale statement in the above rejection, and the rejection

under 35 U.S.C. 103 should be sustained.

Conclusion

11.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jean M. Corrielus whose telephone number is (571) 272-4032.

The examiner can normally be reached on 10 hours shift.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jean M Corrielus
Primary Examiner
Art Unit 2162

October 22, 2005